

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-1863

United States of America,

Appellee,

v.

Carmichael Amaebi Febabor, also
known as Andrew Tony Dole, also
known as Charles Lyon Butler, also
known as Robert Martin Smith,

Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: September 29, 1998

Filed: October 5, 1998

Before FAGG, LOKEN, and HANSEN, Circuit Judges.

PER CURIAM.

Carmichael Amaebi Febabor appeals the sentence imposed by the district court¹ following his guilty plea to conspiring to launder money, in violation of 18 U.S.C. § 1956(h). After denying Febabor's motion for a downward departure, the court sentenced Febabor at the bottom of the applicable range to 24 months imprisonment

¹The HONORABLE RICHARD H. KYLE, United States District Judge for the District of Minnesota.

and three years supervised release. The court also ordered Febabor to pay \$269,288 in restitution jointly and severally with a co-defendant. This appeal followed. After appellate counsel moved to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967), we granted Febabor permission to file a pro se supplemental brief, but he has not done so.

The district court's denial of Febabor's motion for a downward departure is unreviewable, see United States v. Fischl, 16 F.3d 927, 929 (8th Cir. 1994) (district court's failure to grant defendant downward departure is not reviewable on appeal if court was aware of its authority to grant departure), and we believe the court's order of restitution was not an abuse of discretion, see United States v. French, 46 F.3d 710, 716 (8th Cir. 1995) (standard of review).

Upon review of the record in accordance with Penon v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues.

Accordingly, the judgment is affirmed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.